

BEFORE THE DIVISION OF WATER RIGHTS

<p>In The Matter Of:</p> <p>Stillman Seven, LLC (RE: Beaver Springs Ditch)</p> <p>RESPONDENT</p>	<p>MEASURING DEVICE AND CONTROL STRUCTURE NOTICE</p> <p>SEAA No. 1474 DISTRIBUTION ACCOUNT: 103248 WATER RIGHT: 35-8688</p>
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I. AUTHORITY

The Division of Water Rights ("Division") issues this Notice under UTAH CODE ANN. § 73-5-4 (2008), and in accordance with UTAH ADMIN. CODE R. 655-15 (2008).

U.C.A. § 73-5-4 states in part :

(1) To assist the state engineer or water commissioner in the regulation, distribution, and measurement of water, a person using water in this state, ... shall construct or install and maintain controlling works and a measuring device at:

- (a) each location where water is diverted from a source; and*
- (b) any other location required by the state engineer.*

(2) A person using water in this state shall make the controlling works and measuring device accessible to the state engineer or water commissioner.

(3) The state engineer shall approve the design of:

- (a) the measuring device; and*
- (b) controlling works so that the state engineer or a water commissioner may regulate and lock the works. ...*

(6) If a water user refuses or neglects to construct or install the controlling works or measuring device after 30 days' notice to do so by the state engineer, the state engineer may:

- (a) forbid the use of water until the user complies with the state engineer's requirement; and*
- (b) commence enforcement proceedings authorized by Section 73-2-25.*

II. STATEMENT OF FACTS

1. Respondent diverts water from the Weber River for irrigation use at Beaver Springs diversion located East of Oakley, Utah.
2. Beaver Springs ditch is regulated as part of the Weber River Distribution System under the direction of the State Engineer and/or his duly appointed Water Commissioner.
3. A field inspection of the Beaver Springs Diversion Structure was conducted by the State Engineer's Office on August 22, 2013.

4. Beaver Springs Diversion does not have an adequate and lockable control gate (headgate) located at the place where water is being diverted from the Weber River.
5. Such headgate is necessary to enable the water commissioner and/or his deputy commissioner to regulate Weber River water diverted into the Beaver Springs Ditch.
6. We are unaware of any official water company representing the Beaver Springs Ditch water users. If water users have formed a water company, the company would be responsible for the headgate requirements. It appears only private water rights exist.
7. Respondent may include all owners of water rights diverted into the Beaver Springs Ditch. Operation and Maintenance costs are normally shared in proportion to the quantity of water each water user is entitled to receive under their water rights.

III. ACTIONS REQUIRED

1. An adjustable and lockable headgate (control gate) must be installed to enable the water commissioner to regulate the quantity of water diverted from the Weber River at Beaver Springs Ditch Point of Diversion.
2. The measuring flume should be maintained in good working condition.
3. **The work must be completed before July 1, 2014.**

IV. ADDITIONAL AGENCY ACTION

1. The Respondent is encouraged to diligently attend to the work required by this Notice. If the work is satisfactorily completed in a timely manner, the Division will conclude this agency action.
2. If the work is not satisfactorily completed in a timely manner, the Division may issue an Order forbidding the use of water until the Respondent has complied, or may commence an enforcement action as allowed under Utah Code Ann. § 73-5-4 (5).
3. If an Order forbidding the use of water is issued and is violated by the Respondent, the Division may commence an enforcement action in accordance with Utah Code Ann. § 73-2-25 (2008).
4. If determined to be in violation an Order, the Respondent may be subject to administrative penalties in accordance with Utah Code Ann. § 73-2-26 (2005), including fines not to exceed \$5,000 per day for knowing violations or \$1,000 per day for unknowing violations and replacement of up to 200% of water diverted without right. In addition, the Respondent may be liable for expenses incurred by the Division in investigating and stopping the violation.”

V. FURTHER INFORMATION

If the Respondent has any questions concerning this Notice, state laws and rules, or the required and recommended action, please discuss them with:

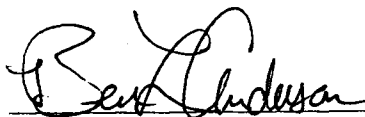
Ross Hansen
Regional Engineer
Western Region
Utah Division of Water Rights
Weber Office
(801) 538-7240

or

Ben Anderson
Water Rights Distribution Engineer
Utah Division of Water Rights
(801) 538-7240

1594 W North Temple Ste 220
P.O. Box 166300
Salt Lake City, UT 84104-6300

Dated this 1st day of October, 2013

A handwritten signature in black ink, appearing to read "Ben L. Anderson", is written over a horizontal line.

Ben L. Anderson, P.E.
Distribution Engineer
Utah Division of Water Rights

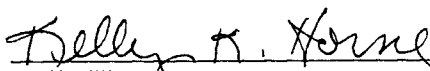
cc: Ross Hansen, Regional Engineer
Reed Cozens, Weber River Water Commissioner

CERTIFICATE OF MAILING

I, the undersigned, certify that on this 1st day of October, 2013, I mailed a copy of the foregoing Notice by regular U.S. Mail, delivery confirmation receipt requested, to the following:

**Stillman Seven LLC
2149 Pheasant Way
Salt Lake City, UT 84121**

USPS TRACKING # **9114 9011 2308 6069 1220 49**
& CUSTOMER
RECEIPT For Tracking or inquiries go to USPS.com
or call 1-800-222-1811.



Kelly Horne
Division of Water Rights
Field Services Secretary